

**Bruce P. Beausejour**

Vice President and General Counsel – New England

185 Franklin Street, 13<sup>th</sup> Floor  
Boston, MA 02110

Tel (617) 743-2445  
Fax (617) 737-0648  
bruce.p.beausejour@verizon.com

March 10, 2004

Mary L. Cottrell, Secretary  
Department of Telecommunications & Energy  
Commonwealth of Massachusetts  
One South Station, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02110

**Re: D.T.E. 03-60 – Implementation of Triennial Review Order**

Dear Ms. Cottrell:

As the Department is aware, on March 3, Verizon Massachusetts (“Verizon MA”) moved the Department to stay the above proceeding in light of the March 2, 2004, decision by the United States Court of Appeals for the District of Columbia Circuit invalidating much of the FCC’s *Triennial Review Order*, including its delegation of decision-making authority to state commissions. In that motion, Verizon MA stated that the Department should nevertheless proceed on Track B of this proceeding, regarding hot cuts.

Upon further review of the D.C. Circuit’s opinion, however, Verizon MA acknowledges that the Department has no mandate or cause to move forward on the batch hot cut process at this time. The *TRO* requires state commissions to approve such a process in order to alleviate the impairment the FCC found CLECs would suffer in the absence of mass market switching from the ILEC. *See TRO*, ¶¶ 486-488. The Circuit Court, however, has vacated both the FCC’s finding of impairment and its delegation of authority to the states (*see* March 2 slip opinion at 21-22), leaving the Department with neither reason nor basis for considering a batch hot cut process at this time.

Unlike the batch hot cut process, the Department’s consideration of new rates for “individual” hot cuts based on WPTS arises not from the *TRO* but from the Department’s decision in D.T.E. 01-20. Verizon MA therefore suggests that the Department can and should proceed with consideration of that matter.

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Accordingly, Verizon MA requests that the Commission stay all matters in D.T.E. 03-60 but continue its investigation of the WPTS process as part of D.T.E. 01-20. Verizon MA hereby amends its Motion for Stay accordingly.

Sincerely,

/s/Bruce P. Beausejour

Bruce P. Beausejour

cc: Paula Foley, Assistant General Counsel  
Jesse Reyes, Esquire  
Michael Isenberg, Director-Telecommunications Division  
April Mulqueen, Assistant Director-Telecommunications Division  
D.T.E. 03-60 Service List